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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael Cecchi et al

Docket No.: H-1351

Serial No.: 10/053,944

Group: 1744

Filed: January 24, 2002

Examiner: D. Redding

For: "Biological Specimen Culturing System and Method With Onboard Specimen Development Sensors"

**PETITION AND FEE FOR REVIVAL OF UNINTENTIONALLY
ABANDONED APPLICATION (37 CFR §1.137(b))**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

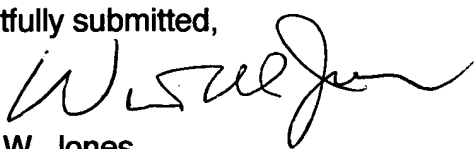
This is a petition to revive the above-identified application which was unintentionally abandoned due to an unintentional delay in prosecuting the application resulting from a unintentional failure to respond to a first office action, which was allegedly mailed by the USPTO on October 14, 2003. A Notice of Abandonment Under 37 CFR 1.53(f) or (g) was mailed May 3, 2004. A copy of the Notice of Abandonment is also enclosed herewith.

The reason for failing to respond to the first office action is that it was never received by the undersigned attorney of record. The undersigned has spoken to Examiner Redding about this matter and the Examiner was kind enough to FAX a copy of the first office action to the undersigned so as to enlighten the undersigned as to the contents thereof. The undersigned informed the Examiner of the filing of a petition under 37 CFR 1.181 and the Examiner responded by doubting that such a petition would be granted in this case. The Examiner explained that the USPTO presumes that the US Postal Service delivers mail properly to the party in question, and that this presumption is essentially non-rebuttable by the party in question. The Examiner opined that the only way to reopen prosecution of this case would be to file this petition. We also enclose a copy of a response to the first office action so that this case may be further examined without further delay.

Our check in the amount of \$665.00 in payment of the petition fee is enclosed.

We trust that in the event that the petition under 37 CFR 1.181 is granted, that the fee payment submitted in connection with this petition will be refunded to the undersigned.

Respectfully submitted,


William W. Jones
Attorney for Applicant
Reg. No. 24,607

6 Juniper Lane
Madison, CT 06443
(203) 245-2418

Date: 9-19-04



Notice of Abandonment

Application No.

10/053,944

Examiner

David A Redding

Applicant(s)

CECCHI ET AL.

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 10/14/2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

David Redding

DAVID A. REDDING
PRIMARY EXAMINER
GROUP 1300

4/29/2004

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.